IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1321 OF 2005
ALONG WITH
CRIMINAL APPLICATION NO.1322 OF 2005
ALONG WITH
CRIMINAL APPLICATION NO.1323 OF 2005

Mr. Anup Goyal ...Petitioner.

V/s

State of Maharashtra
and Ors. ...Respondents.

N. K. Pandya i/b Mahesh Menon & Co. for the petitioner.
Mr. S.J. Misra i/b SRS Legal for respondent No.2.
Mr. S.R. Shinde, APP for the State.

CORAM: V.M. KANADE, J.
DATE : 28TH MARCH, 2005

P.C.:

1. Petitioner is challenging the order of issuance of process passed by the Metropolitan Magistrate, 24th Court, Borivali, Mumbai on a complaint filed by respondent No.2 under section 138 of the Negotiable Instruments Act.

2. It is submitted by the learned Counsel appearing on behalf of the petitioner that the petitioner was only the former director of respondent No.3 and he had resigned from the Board of directors of respondent No.3 on 5/5/2000. He submitted that the application was made to the Registrar of Companies by filing Form 32. It is submitted that the cheques were issued

after his resignation and, therefore, the process which is issued was liable to be quashed qua the petitioner.

3. Respondent No.2 has filed its reply in which it is pointed out that the complaint was filed against respondent No.3 - Company viz. IQ Tech Media Pvt. Ltd. The learned counsel appearing on behalf of respondent No.2 invited my attention to Form 32 which is annexed to the Petition. He submitted that the said Form indicated that the petitioner had resigned from some other Company viz. Candid Image Pvt. Ltd. It is, therefore, submitted that there was no material to show that the petitioner had resigned from respondent No.3 - Company.

4. The learned Counsel appearing on behalf of the petitioner submitted that Candid Image is a holding Company and respondent No.3 is a subsidiary Company. However, no averments to that effect have been made in the Petition.

5. Thus, it is not possible to accept the submissions made by the learned Counsel appearing for the petitioner. Criminal Applications are, therefore, liable to be dismissed. However, all questions raised

in these applications are kept open. If an application is made for exemption by the petitioner before the learned Metropolitan Magistrate, he shall consider the same favourably and the presence of the accused should not be insisted upon unless his presence is required for any reason whatsoever. Trial Court is directed to expedite the hearing of the case and decide the same, in any case, within a period of six months.

6. With the above directions, all these three Criminal Applications are dismissed.

V.M. KANADE, J.